

RULE 80F. TRAFFIC INFRACTIONS

(a) Applicability. These rules shall apply to traffic infraction proceedings in the District Court except as otherwise provided in this rule.

(b) Commencement of Proceeding. A proceeding under this rule is commenced by delivery of a copy of a Violation Summons and Complaint completed in the manner prescribed by subdivision (c). Such Violation Summons and Complaint may be:

(1) filled out and delivered to defendant personally by any officer authorized to enforce the motor vehicle laws of this state who has probable cause to believe that a traffic infraction has been committed;

(2) filled out by any officer authorized to enforce the motor vehicle laws of this state who has probable cause to believe that a traffic infraction has been committed and (A) transmitted to any officer authorized to enforce a statute of this state defining a traffic infraction for delivery to the defendant personally, or (B) served on the defendant in any manner permitted under Rule 4(c)(4) of the Maine Rules of Criminal Procedure; or

(3) filled out by a prosecutor and delivered to the defendant personally or the defendant's attorney personally if the traffic infraction arises out of the same set of facts which gave rise to another traffic infraction or criminal complaint under the motor vehicle laws of this state. Any Violation Summons and Complaint served as provided in this paragraph (3) may be filed in the Violations Bureau by delivering it to the clerk of the division in which the infraction is alleged to have been committed or in a county in which the criminal complaint is or was pending. The clerk may receive the defendant's answer and shall send the Violation Summons and Complaint and any answer to the Violations Bureau.

The officer delivering the Violation Summons and Complaint shall not take the defendant into custody. Within 5 days after delivery to defendant, the officer shall cause the original of the Violation Summons and Complaint to be filed with the Violations Bureau. No filing fee is required. All proceedings arising under a statute shall be brought in the name of the State of Maine. All proceedings

arising under an ordinance shall be brought in the name and to the use of the political subdivision that enacted such ordinance.

(c) **Content of Violation Summons and Complaint.** The Violation Summons and Complaint shall contain the name of the defendant; the time and place of the alleged infraction; a brief description of the infraction; the number of days within which the defendant is to file an answer in writing with the Violations Bureau; and the signature of the officer issuing the ticket and complaint. No other summons, complaint or pleading shall be required of the state, but motions for appropriate amendment of the complaint shall be freely granted.

(d) **Pleadings of Defendant.**

(1) *Answer.* An answer shall be filed with the Violations Bureau within 20 days of the date of service of the Violation Summons and Complaint. The answer shall state that the violation is either contested or not contested and the answer shall be made in writing by the defendant or by defendant's attorney.

(2) *No Joinder.* Proceedings pursuant to this rule shall not be joined with any actions other than another proceeding pursuant to this rule, nor shall a defendant file a counterclaim.

(3) *Not Contested.* An answer that a violation is not contested shall not be admissible as an admission in any civil or criminal proceeding arising out of the same set of facts.

(4) *Judgment on Acceptance of Answer of "Not Contested."* The Violations Bureau clerk may accept an answer of "not contested" to any traffic infraction and assess the fine as set in accordance with a schedule of fines established by the Chief Judge for various categories of traffic infractions.

(e) **Incomplete Filing.** Notwithstanding Maine Rule of Civil Procedure 5(f), the Clerk of the Violations Bureau or the Clerk's designee, may docket an incomplete filing in a traffic infraction matter for the sole purpose of being able to respond to customer service inquiries. The Clerk of the Violations Bureau or the Clerk's designee may dismiss an infraction if the original Violation Summons and Complaint charging that infraction is not received by the Violations Bureau within 30 days after receipt of the defendant's answer.

(f) **Filed Cases.** When the attorney for the State files a traffic infraction complaint, with or without conditions, such filing shall be for a period of 180 days. Filed cases shall be dismissed by the Clerk of the Violations Bureau or the Clerk's designee at the conclusion of the 180-day period unless the attorney for the State notifies the Bureau within that time period that the case should be set for trial.

When the attorney for the State files a traffic infraction complaint, with the condition of payment of costs, the costs must be paid to the Violations Bureau within 30 days of the date of the filing. If the costs are not paid within 30 days, the Violations Bureau shall set the case for trial.

(g) **Venue; Trial.** A traffic infraction proceeding shall be filed in the Violations Bureau and, upon the filing of an answer of "contested," the Violations Bureau shall transfer the case to the appropriate division of the District Court for trial. Unless otherwise ordered by the court, the trial of a traffic infraction shall be held in the division in which the infraction is alleged to have been committed. If the defendant is adjudicated to have committed the traffic infraction and a fine is imposed by the court, the court shall inform the defendant that immediate payment of the fine in full is required. Immediately upon disposition, the case shall be returned to the Violations Bureau.

(h) **Discovery.** Discovery shall be had only by agreement of the parties or by order of the court on motion for good cause shown.

(i) **Removal.** There shall be no removal of traffic infraction proceedings.

(j) **Standard of Proof.** Adjudication of a traffic infraction shall be by a preponderance of the evidence.

(k) **Default.**

(1) *Entry of Default.* If the defendant fails to respond within 20 days of the date of service of the Violation Summons and Complaint, or if the defendant fails to appear at trial, the Clerk of the Violations Bureau or the Clerk's designee shall enter a default judgment and adjudicate that the defendant has committed the traffic infraction alleged. In each case, after entry of default, the Clerk or the Clerk's designee shall impose the fine from the schedule of fines established by the Chief Judge.

(2) *Setting Aside the Default.* For good cause shown the court may set aside the default and adjudication under M.R. Civ. P. 55 (c) and 60 (b), as applicable. If it is determined that due to the operation of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, a default should not have been entered, all costs shall be stricken, the adjudication vacated, the default stricken, and the defendant permitted an opportunity to answer.

(l) Extension of Time to Pay Fines.

(1) *Failure to Answer or Answer of "No Contest."* If a defendant in a traffic infraction proceeding fails to answer within 20 days of the date of service of the Violation Summons and Complaint or answers "no contest" but does not pay the fine or pays only part of the fine, the Violations Bureau shall send a notice to the defendant, at his/her last known address, that if the fine is not paid in full within 30 days, the defendant's right to operate a motor vehicle in Maine will be suspended without further notice. If the fine is not paid in full within the 30-day period, the suspension is effective and the Secretary of State shall be notified of the suspension.

(2) *Contested Infractions.* If the traffic infraction case is referred to court because the defendant contested the case and if the defendant changes the answer to "no contest" or if a fine is imposed by the court, the fine must be paid within 30 days of imposition unless the court orders a different payment date. If the fine is not paid in full within 30 days or within the period of time ordered by the court, whichever is longer, the defendant's right to operate a motor vehicle in Maine is suspended immediately without further notice and the Secretary of State shall be notified of the suspension.

Other than the above, there shall be no extensions of time for payment of a traffic infraction fine.

(m) Appeal. A party entitled to appeal may do so as in other civil actions.

(n) Costs. Costs shall not be awarded as in other civil actions. Only those costs expressly authorized by statute shall be imposed.

(o) Notice of Order or Judgment. The clerk is not required to serve a notice of the entry of an order or judgment on the State or a political subdivision. The clerk is not required to serve a notice of the entry of an order or judgment on the defendant when the defendant, in writing, enters an answer of "not contested" to

the traffic infraction or when the defendant, personally or through counsel, appears in court and is informed by the court of the judgment or order.

Advisory Note – December 2013

Rule 80F(e) is amended to address situations where a defendant has been served with a Violation Summons and Complaint and files an answer with the Violations Bureau, but the officer does not submit the original Violation Summons and Complaint to the Violations Bureau. Under the prior version of subsection (e), the Violations Bureau docketed these answers, which were sometimes accompanied by a fine payment, but were uncertain whether to return the funds when no Violation Summons and Complaint was later received. This amendment clarifies that the Violations Bureau shall retain the defendant's answer and any accompanying fine payment for thirty days. If the officer does not cause the original Violation Summons and Complaint to be filed within that time period, the Clerk or the Clerk's designee may dismiss the infraction. This authority is similar to the Clerk's authority in subsection (f) to dismiss proceedings that have not been prosecuted by the State.

Advisory Notes July 1, 2005

These amendments to Rule 80F are designed to improve the processing of traffic infraction cases within the Violations Bureau.

1. The amendments to 80F(c) and 80F(d)(1) allow the Violations Summons and Complaint form to be amended to specify that an answer must be filed within 20 days in order to avoid a default. Under current practice, an officer must write in the response date on the summons and complaint. This is unnecessary. The amendment specifies that the form indicate the "number of days" within which a defendant must file an answer to avoid a default and that the answer must be filed within 20 days of service of the summons and complaint. Separately, the default rule, presently 80F(i), but 80F(k), as revised, is being amended to specify the 20-day response time.

2. Subdivision (e) and subsequent subdivisions of Rule 80F are relettered.

3. A new subdivision 80F(e) is added specifying that staff of the Violations Bureau may docket an incomplete filing in a traffic infraction

matter in order to be able to respond to customer service inquiries that may be directed to the Violations Bureau before the filing of the violations summons and complaint is completed by the summoning officer or department.

4. Subdivision 80F(f) is added to address procedures for dealing with traffic infraction complaints that are filed by the State with or without conditions. To assure that cases are completed in a timely manner, the Violations Bureau is authorized to dismiss filed cases that are not set for trial within 180 days after filing. The amendment also specifies that when a traffic infraction is filed with condition of payment of costs, costs must be paid to the Violations Bureau within 30 days of the date of filing or the case will be reset for trial.

5. The default rule is redesignated as 80F(k). It is changed to indicate that when a defendant fails to respond to a summons within 20 days, the staff of the Violations Bureau shall enter a default and impose the fine according to the fine schedule. When a defendant requests a trial but then fails to appear at trial, the clerk of the District Court at which the trial is to occur, or a member of the Violations Bureau staff, shall enter the default and adjudicate that the defendant has committed the traffic infraction alleged. The clerk or staff member shall then impose the fine from the fine schedule.

6. A new rule 80F(l) is adopted regarding extension of time to pay fines. It specifies the terms under which an extension of time to pay fines may be granted and the procedure for notification of the Secretary of State and suspension of right to operate if the fine is not paid within the requisite time.

Advisory Committee's Notes January 1, 2001

In the 2000 Legislative session, 14 M.R.S.A. § 3141(2) was amended to require that, at a defendant's initial appearance in a traffic infraction proceeding, the defendant is to be informed by the court that if the defendant is adjudicated to have committed the traffic infraction, "and if a fine is imposed by the court, immediate payment of the fine in full is required."

The above amendment to Rule 80F(e) attempts to address that directive in the context of a practice regarding appearances for traffic infractions where the

defendant does not appear before the court prior to a requested trial. When the defendant does appear for trial, having transferred the traffic infraction from the Violations Bureau, it would appear bad form to start the proceedings by the court advising the defendant that, if they are found to have committed the infraction, and if a fine is imposed, immediate payment of the fine is required. Such a statement, in a proceeding explicitly for trial, could be construed by citizens to suggest prejudgment of their case. Such must be avoided to assure that defendants believe that they will get a fair trial. Accordingly, the court should defer advice regarding the payment responsibility for any fine until the trial is completed with an adjudication that the defendant has committed the infraction. This advice would still be given at the defendant's "initial appearance" but at a time more appropriate in the unique context of an appearance for trial in a traffic infraction.

Advisory Committee's Notes
May 1, 2000

The amendment to subdivision (i)(2) incorporates references to Rules 55 (c) and 60 (b) to make clear that if an entry of default or an adjudication by default is to be set aside, the procedure of those rules governs.

Advisory Committee's Notes
February 15, 1996

Rule 80F(b)(3) is amended to make clear the original intent that the paragraph following paragraph (3) applies only to a Violation Summons and Complaint served under paragraph (3). Filing of the Violation Summons and Complaint and the answer in cases where the process is served by an officer is covered by the final separate paragraph of subdivision (b) and by Rule 80F(d)(1). See M.R. Civ. P. 80F(b) advisory committee's note to Jan. 1, 1992, amend., Me. Rptr., 589-601 A.2d XXXVII.

Advisory Committee's Notes
1993

Rule 80F(b)(2) is amended to eliminate the procedure under which a District Court clerk could fill out and deliver for service a traffic infraction Violation Summons and Complaint if satisfied upon examination of the complainant and any witnesses that a traffic infraction had been committed. This provision was seldom used. It represents an unnecessary step that could impose an undue burden upon clerks who may have difficulty in applying the standard. Under the amended rule,

if an officer with probable cause cannot, or does not wish to, make service in person under Rule 80F(b)(1), the officer may either deliver the process to another traffic enforcement officer for service, or cause it to be served in any other manner appropriate for a criminal summons under M.R. Crim. P. 4(c)(4).

Comparable amendments are being made simultaneously in Rules 80H(b) and (c) and 80K(b) and (c).

Advisory Committee's Notes 1992

Rule 80F is amended to implement P.L. 1991, ch. 549, authorizing the Chief Judge of the District Court to establish a violations bureau to process all traffic infraction matters beginning January 1, 1992.

Rule 80F(b) is amended to refer to the charging instrument in traffic infraction matters as the Violation Summons and Complaint. The amendment permits service of the complaint either on the defendant personally by an officer with probable cause or by any method of service of a criminal summons under M.R. Crim. P. 4(c)(4). There seems to be no reason to continue the provision of the current rule imposing a stricter requirement for service of a Violation Summons and Complaint than for a summons in a criminal case. Rule 80F(b)(3) is added to permit a Violation Summons and Complaint to be prepared by a prosecutor and filed with the local District Court clerk after service on the defendant or the defendant's counsel. The purpose of this amendment is to permit the prosecutor freedom in plea bargaining situations. This subdivision is also amended to conform with the statute requiring the officer who serves the Violation Summons and Complaint to file the complaint in the Violations Bureau within 5 days.

Rule 80F(c) is amended to require that the defendant's answer to a Violation Summons and Complaint be filed in writing with the Violations Bureau on or before the date set forth in the complaint. This changes current practice under which the defendant must appear in court personally or by counsel to enter a denial and seek a trial.

New Rule 80F(d) omits any reference to oral answers of "admit" and "deny," substituting written answers of "contested" and "not contested." The new rule also provides for the answer to be filed with the Violations Bureau. As with the current answer of "admit," an answer of "not contested" may not be admitted

into evidence as an admission in any other civil or criminal proceeding involving the same incident. In Rule 80F(d)(4) “not contested” is substituted for “admit,” and all reference to a schedule of fines set by the resident judge is eliminated. The latter change is necessitated by P.L. 1991, ch. 549, § 3, amending 4 M.R.S.A. § 164(12).

New Rule 80F(e) provides that the place of trial in a contested traffic infraction matter shall be in the division in which the alleged infraction occurred, although the court is given discretion to order that the trial be in another division. It is anticipated that transfers for trial will be authorized in those situations in which the interests of justice will be served by permitting the defendant or the State a more convenient trial location or by permitting the court to group together a number of traffic infraction matters to save administrative expenses.

Rule 80F(i) is added as a result of the repeal of 14 M.R.S.A. § 3143, which detailed the procedure to be followed in a situation in which a defendant failed to appear. This repeal was a part of P.L. 1991, ch. 549. The new rule provides a method for disposition of those traffic infraction cases in which the defendant takes no action to answer the summons and complaint or, having answered, fails to appear for trial. It also provides that the defendant will be given the opportunity to answer in the event the defendant’s default should not have been entered because of the applicability of the Soldiers’ and Sailors’ Civil Relief Act, 50 U.S.C.A. App. § 520(4). *See* 2 Field, McKusick & Wroth, *Maine Civil Practice* § 55.5 (2d ed. 1970).

Rule 80F(l) is amended by adding that notice of the judgment need not be served on a political subdivision that initiated the Violation Summons and Complaint. It also changes the reference from an answer of “admit” to one of “not contested.”